

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA

Plaintiff,

v.

MARK LORENZO MCGLOVER,

Defendant.

CASE NO. CR06-393 JLR

ORDER

This matter comes before the court on Defendant's motion for prompt review of detention order (Dkt. # 21). The court has reviewed the court file, including all pleadings related to Defendant's detention, and the transcript of the detention hearing before Magistrate Judge Donohue on November 27, 2006. The court does not believe that oral argument is necessary in this matter. For the reasons stated below, the court DENIES the motion and continues Defendant's detention.

The parties are in general agreement on the applicable law. Under 18 U.S.C. § 3142, the court may detain a defendant prior to trial if "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community." The court considers four factors when determining whether a defendant is a flight risk or a danger to the community: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the person; and (4) the nature and

1 seriousness of the danger to any person or the community that would be posed by the
2 person's release. 18 U.S.C. § 3142(g). While the statute is silent as to how much weight
3 is given to each factor, the Ninth Circuit has held that the weight of the evidence against
4 the person is the least important factor. United States v. Motamadi, 767 F.2d 1403, 1408
5 (9th Cir. 1985).

6 When, as here, the case involves an alleged crime of violence, the government
7 must support a claim of dangerousness by clear and convincing evidence. 18 U.S.C. §
8 3142(f). A claim of flight risk must be supported by a preponderance of the evidence.
9 United States v. Winsor, 785 F.2d 755, 757 (9th Cir. 1986). A rebuttable presumption
10 that a defendant poses a flight risk and a danger to the community arises if the court finds
11 probable cause to believe that the defendant has committed an offense carrying a term of
12 imprisonment of 10 years or more. 18 U.S.C. § 3142(e).

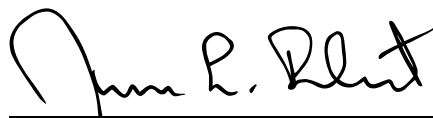
13 The court has reviewed the four factors found in 18 U.S.C. § 3142 as applied to
14 the facts of this case. It is in agreement with Judge Donohue's evaluation of the factors.
15 The court finds there is no condition or combination of conditions that will reasonably
16 assure the appearance of Defendant and the safety of other persons and the community.

17 In addition, the court has considered Defendant's arguments that Judge Donohue
18 relied on improper, prejudicial, or unreliable evidence. The court finds that Defendant's
19 contentions are not supported by the record of proceedings. The court concludes that
20 Defendant's claim of assigned errors lacks merit.

21 For these reasons, the court DENIES Defendant's motion (Dkt. # 21) and
22 continues Defendant's detention.

23 Dated this 4th day of January, 2007.

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JAMES L. ROBART
United States District Judge